

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 1052

Introduced by Christensen, 44.

Read first time January 21, 2010

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue; to adopt the Agricultural
2 Production and Economic Stability and Assistance Act;
3 to create a fund; to provide an operative date; and to
4 declare an emergency.

5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 11 of this act shall be known
2 and may be cited as the Agricultural Production and Economic
3 Stability and Assistance Act.

4 Sec. 2. (1) The Legislature finds that it is beneficial
5 to the well-being of the people of this state that there be
6 agricultural production of appropriate size and strength to provide
7 economic stability and revenue stability or growth for rural
8 communities and their political subdivisions to maintain essential
9 services and to stabilize the population of the rural areas of the
10 state. Agricultural production (a) generates economic activity as
11 well as additional state and local taxes from persons residing
12 within and outside the state and (b) creates new economic
13 opportunities for residents. The Legislature also finds that
14 water and agricultural production in this state are inseparably
15 linked. Certain areas of the state are under interstate compacts,
16 agreements, and decrees regulating water use and the state has
17 assumed responsibility for compliance for such interstate compacts,
18 agreements, and decrees. Because of such decisions and additional
19 regulations by agencies of the state and the Legislature upon water
20 use in such areas of the state, great potential exists for severe
21 harm to agricultural production and the rural communities and
22 political subdivisions supported by such agricultural production.

23 (2) For the state to receive long-term economic and
24 fiscal benefits from such agricultural production, a need exists to
25 provide state assistance to natural resources districts endeavoring

1 to manage water resources and augment water supplies for economic
2 stabilization in river basins affected by interstate compacts,
3 agreements, and decrees. It is in the best interests of both
4 the state and its political subdivisions that the state assist
5 natural resources districts in financing the management of water
6 resources and the augmentation of water supplies for the economic
7 stabilization of agricultural production in river basins where
8 state responsibility for interstate compacts, agreements, and
9 decrees exist.

10 Sec. 3. For purposes of the Agriculture Production and
11 Economic Stability and Assistance Act:

12 (1) Board means the board created in section 4 of this
13 act;

14 (2) Bond means a river-flow enhancement bond, negotiable
15 bond, or refunding bond of a district, joint entity, or joint
16 public agency authorized and issued under section 2-3226.01;

17 (3) District means a natural resources district operating
18 pursuant to Chapter 2, article 32;

19 (4) Eligible district means a district, joint entity, or
20 joint public agency with jurisdiction that is part of a river basin
21 described in section 2-1504 in which a majority of the districts
22 have adopted controls in accordance with subdivision (1)(d) of
23 section 46-739;

24 (5) Eligible district projects means a project allowed
25 under section 2-3226.04; and

1 (6) Retailer means a retailer as defined in section
2 77-2701.32.

3 Sec. 4. A board is created with members consisting of the
4 Director of Natural Resources, the State Treasurer, the chairperson
5 of the Nebraska Investment Council, the chairperson of the Nebraska
6 State Board of Public Accountancy, a natural resources district
7 manager from a district that contains a fully appropriated river
8 basin as determined under the Nebraska Ground Water Management
9 and Protection Act, a natural resources district manager from
10 a district that contains an overappropriated river basin as
11 determined under such act, the mayor of a city or village in
12 a fully appropriated or overappropriated river basin as determined
13 under such act, and a professor of agricultural economics on the
14 faculty of a state postsecondary educational institution appointed
15 to a two-year term on the board by the Coordinating Commission
16 for Postsecondary Education. For administrative and budget purposes
17 only, the board shall be considered part of the Department of
18 Natural Resources. A majority of the board members constitutes a
19 quorum for the purpose of conducting business. All actions of the
20 board shall be by a majority vote of all board members.

21 Sec. 5. (1) All applications for state assistance under
22 the Agriculture Production and Economic Stability and Assistance
23 Act shall be in writing from a district, joint entity, or joint
24 public agency, shall include a certified copy of the action
25 approving the application, and shall include a summary of the

1 eligible district projects to be financed under the act.

2 (2) The application shall contain:

3 (a) A description of the proposed financing for the
4 eligible district projects, including the estimated principal and
5 interest requirements for the bonds issued or proposed to be issued
6 in connection with the eligible district projects or the amounts
7 necessary to repay the original investment in an eligible district
8 project or bonds;

9 (b) Documentation of local financial commitment to
10 support the eligible district project, including all public and
11 private resources pledged or committed to such project; and

12 (c) Any other information about the eligible district
13 project deemed appropriate by the board.

14 (3) Upon receiving an application for state assistance,
15 the board shall review the application and notify the applicant of
16 any additional information needed for a proper evaluation of the
17 application.

18 Sec. 6. (1) After reviewing an application and upon
19 reasonable notice to the applicant, the board shall hold a public
20 hearing on the application. The board shall give notice of the
21 time, place, and purpose of the public hearing by publication three
22 times in a newspaper of statewide circulation. Such publication
23 shall be not less than ten days prior to the hearing. The notice
24 shall describe generally the eligible district projects for which
25 state assistance has been requested. The applicant shall pay the

1 cost of the notice. After the public hearing, representatives of
2 the applicant and any other interested persons may appear and
3 present evidence and argument in support of or in opposition to
4 the application or neutral testimony. The board may seek expert
5 testimony and may require testimony of persons whom the board
6 desires to comment on the application. The board may provide for
7 the acceptance of additional evidence after conclusion of the
8 public hearing.

9 (2) After consideration of the application and the
10 evidence, the board shall issue a finding of whether the district,
11 joint entity, or joint public agency is an eligible district.

12 (3) If the board finds that the district, joint entity,
13 or joint public agency described in the application is an eligible
14 district and that state assistance is in the best interest of the
15 state, the application shall be approved. In determining whether
16 state assistance is in the best interest of the state, the board
17 shall consider the fiscal and economic capacity of the applicant to
18 finance the eligible district projects.

19 (4) If the board deems a district, joint entity, or joint
20 public agency to be an eligible district and will receive state
21 assistance pursuant to the Agriculture Production and Economic
22 Stability and Assistance Act, all eligible districts in the
23 same river basin as described in section 2-1504 shall develop
24 a plan to coordinate eligible projects in the river basin. The
25 project coordination plan shall include, but is not limited to,

1 determinations giving priority to eligible district projects that
2 promote economic stability, water resources management, and healthy
3 agriculture production.

4 Sec. 7. (1) If an application is approved under section 6
5 of this act, the Tax Commissioner shall:

6 (a) Determine the state sales tax revenue collected by
7 retailers doing business within the rapid response area of two and
8 one-half miles on either side of the river, stream, or tributary
9 within the eligible district; and

10 (b) Certify annually the amount of state sales tax
11 revenue collected by such retailers to the State Treasurer.

12 (2) Upon the annual certification, the State Treasurer
13 shall transfer the amount certified to the Agriculture Production
14 and Economic Stability and Assistance Fund, which is hereby
15 created. Any money in the fund available for investment shall be
16 invested by the state investment officer pursuant to the Nebraska
17 Capital Expansion Act and the Nebraska State Funds Investment Act.

18 (3) (a) It is the intent of the Legislature to appropriate
19 from the Agriculture Production and Economic Stability and
20 Assistance Fund to any eligible district for which an application
21 for state assistance under the Agriculture Production and Economic
22 Stability and Assistance Act has been approved, an amount not to
23 exceed (i) seventy percent of the amount certified by the Tax
24 Commissioner for the eligible district under subsection (1) of
25 this section, (ii) seventy-five million dollars for any eligible

1 district project, or (iii) the total cost of the eligible district
2 project.

3 (b) Ten percent of the funds appropriated under
4 subdivision (3)(a) of this section to an eligible district shall
5 be equally distributed to (i) improve water quality of municipal
6 water supplies or (ii) maintain current dams and reservoirs in
7 such eligible district and any adjacent recreational land and
8 facilities.

9 Sec. 8. (1) A committee shall be formed to establish
10 a development fund and identify and research potential projects
11 and make final determinations on how the funds distributed under
12 subdivision (3)(b) of section 7 of this act will be used. The
13 committee formed shall include: A member of a city council or
14 village board whose district includes a majority of the census
15 tracts within the river basin of the eligible district; the county
16 commissioner of a county within, or more than half of which is
17 within, such river basin; a member of the board of the eligible
18 district; a G4P commissioner whose district is within such river
19 basin; and a resident of the river basin chosen by the city or
20 village council member and the county commissioner member of the
21 committee.

22 (2) A committee formed in subsection (1) of this section
23 shall solicit project ideas from the public and shall hold a
24 public hearing in the river basin. Notice of the hearing shall
25 be provided in accordance with the procedures for notice of a

1 public hearing under section 18-2115. The committee shall research
2 potential projects and make the final determination regarding the
3 annual distribution of funding to such projects.

4 Sec. 9. Any state assistance received pursuant to the
5 Agriculture Production and Economic Stability and Assistance Act
6 shall be used only for eligible district projects and may be used
7 to pay back amounts expended or borrowed through one or more issues
8 of bonds, including principal of and interest on bonds, to be
9 expended for eligible district projects. The eligible district may
10 issue from time to time bonds to finance and refinance eligible
11 district projects. An eligible district may continue to apply to
12 the board for continuing state assistance in reimbursing the costs
13 of eligible district projects until the retirement of the bonds
14 issued to fund eligible district projects or any subsequent bonds
15 that refunded the original issue or when state assistance reaches
16 the amount determined under subdivision (3) (a) of section 7 of this
17 act.

18 Sec. 10. The remaining thirty percent of state sales
19 tax revenue collected by retailers doing business within the rapid
20 response area of two and one-half miles on either side of a river
21 or stream within an eligible district shall be appropriated by the
22 Legislature to the Water Resources Cash Fund.

23 Sec. 11. The board shall not accept applications for
24 state assistance under the Agriculture Production and Economic
25 Stability and Assistance Act after December 31, 2015.

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1 Sec. 12. This act becomes operative on July 1, 2010.

2 Sec. 13. Since an emergency exists, this act takes effect

3 when passed and approved according to law.